

"HAWAII ADMINISTRATIVE RULES

Title 11

DEPARTMENT OF HEALTH

CHAPTER 79

LICENSING DIETITIANS

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§11-79-1 Purpose. The purpose of this chapter is to establish standards for the licensing of dietitians. [Eff] (Auth: HRS §448B-3) (Imp: HRS §448B-3)

§11-79-2 Definitions. As used in this chapter: "Association" means the American Dietetic Association;

"Commission on Accreditation" means the Commission on Accreditation for Dietetics Education;

"Commission on Dietetic Registration" means the accrediting agency for the American Dietetic Association;

"Committee" means an advisory committee of licensed dietitians appointed by the Director of Health to assist with implementation of the licensure program;

"Department" means the department of health, State of Hawai'i;

"Dietetic Practice" means the integration and application of scientific principles of nutrition, biochemistry, physiology, food, behavioral and social sciences in managing disease and achieving and maintaining human health throughout the life cycle;

"Director" means the director of health, State of Hawai'i;

"Hearing officer" means the a person appointed by the director to convene, preside over, and adjudicate investigative hearings involving violations of this chapter and other administrative proceedings by applicants for licensure.

"Licensed dietitian" means a person who uses the title of licensed dietitian or dietitian and has been licensed to practice dietetics under this chapter. [Eff] (Auth: HRS §448B-3) (Imp: HRS §448B-3)

§11-79-3 Advisory Committee. (a) The director shall appoint five members to serve on the advisory committee.

(b) The members shall be licensed dietitians as defined in subchapter 1 of these rules.

(c) Membership terms. Members shall serve for terms of three years each. No person shall serve more than two consecutive terms.

(d) The committee shall meet as required, and shall advise the director on matters pertaining to this chapter, including applications, revocation of licenses, budget issues related to fees collected, and use of special fund. [Eff] (Auth: HRS §448B-3) (Imp: HRS §448B-3)

Subchapter 2

Requirements for Licensure

§11-79-4 Qualifications for licensure. (a) Applicants shall meet the following qualifications to be licensed:

- (1) Have received a baccalaureate degree or post baccalaureate degree from a regionally accredited college or university with a major course of study in dietetics, human nutrition, food and nutrition, food systems management, or academic requirements related thereto, approved by the Commission on Accreditation, or meets equivalent core requirements for the dietetics option at the University of Hawai'i. In addition to the basic dietetic principles of nutrition, human physiology, biochemistry, and behavioral and social sciences, course work shall include at least nine semester credits (or twelve quarter hours) relating to food science and food preparation. Applicants who have obtained their education outside of the United States and its territories shall have their academic degree validated by an agency authorized to validate foreign academic degrees as being equivalent to a baccalaureate, master's, or doctoral degree conferred by a regionally accredited college

or university in the United States. Validation of a foreign degree shall include a verification statement of completion of the major course of study or related academic requirements, basic dietetic principles, and course work specified in this section;

- (2) Satisfactorily complete a documented supervised practice experience component in dietetic practice of not less than nine hundred hours approved by the Commission on Accreditation;
- (3) Pass the examination for registration as a dietitian administered by the Commission on Dietetic Registration; and
- (4) Submit a report of any disciplinary action relating to dietetics practice taken against the applicant in another jurisdiction.

(b) An individual who provides evidence of current registration with the Commission on Dietetic Registration shall be deemed to have met the requirements of this chapter, provided that the individual shall comply with the requirement of (a) (4) above. [Eff] (Auth: HRS §448B-3) (Imp: HRS §448B-5)

§11-79-5 Application. (a) Applications for licensure as a dietitian shall be submitted to the department on forms provided by the department. An applicant shall provide the following information on the application form:

- (1) The applicant's legal name;
- (2) Affirmation that the applicant is beyond the age of majority;
- (3) The applicant's current residence, business and mailing addresses, telephone numbers and e-mail address;
- (4) Photocopy of driver's license or state identification card;
- (5) Photocopy of current Commission on Dietetic Registration card;

- (6) The date and place of any conviction of a criminal offense related to dietetics, unless the conviction has been expunged or annulled, or is otherwise precluded from consideration by section 831-3.1;
 - (7) Proof that the applicant is a United States citizen, a United States national, or an alien authorized to work in the United States;
 - (8) Disclosure of similar licensure in any state or territory; and
 - (9) Disclosure of disciplinary action by any state or territory against any license held by the applicant.
 - (10) Any other information the department may require to investigate the applicant's qualifications for licensure.
- (b) Failure to provide the above information and pay the required fees shall be grounds to deny the application for licensure. [Eff] (Auth: HRS §448B-3) (Imp: HRS §448B-3)

§11-79-6 Timely processing. (a) The director shall approve, approve with conditions, or deny a complete application and notify the applicant accordingly within one hundred eighty days after the receipt of the completed application and fees. Otherwise, the application is deemed automatically approved on the one hundred and eighty-first day.

(b) The director shall determine and notify an applicant of the completeness or deficiency of an application covered by this section, including payment of required fees, within forty-five days of receipt of the application.

(1) Failure by the applicant to provide additional information, pay the fees, or correct a deficiency for completeness of the application is sufficient ground to suspend or terminate a review of the application.

(2) The director shall determine and notify an applicant of the completeness of a revised application covered by this section, including

payment of required fees, within thirty days of receipt of the revised completed application.

(c) All necessary fees shall be submitted with application and renewal forms. [Eff] (Auth: HRS §448B-3) (Imp: HRS §448B-9)

§11-79-7 Renewal of license.

(a) A renewal application shall be on a form provided by the department.

(b) A photocopy of current registration with Commission on Dietetic Registration shall be provided by the applicant. [Eff] (Auth: HRS §448B-3) (Imp: HRS §448B-8)

§11-79-8 Period of licensure.

Licensure shall be granted for a period of three (3) years to an individual who satisfactorily meets all of the requirements of this chapter. [Eff] (Auth: HRS §448B-3) (Imp: HRS §448B-8)

§11-79-9 Inactive Licenses.

(a) Upon request, inactive status may be granted by the director to a person licensed under this chapter. Such request shall be submitted in writing to the department, and the department shall respond to the request, in writing, within fifteen calendar days upon receipt of the request.

(b) If the director grants a request to inactivate the license, the license shall be returned to the department.

(c) Any request to reinstate an inactive license shall be submitted in writing to the department. The department shall respond to the request in writing within fifteen calendar days of receipt of the request. An inactive license may be reinstated by meeting the requirements in this subchapter.

(d) An inactive license must be reinstated within two (2) years from the expiration date of the inactivated certificate. If no reinstatement occurs within that time, licensing can only be accomplished by following the procedures for initial licensing as

provided in this subchapter. [Eff _____] (Auth: HRS §448B-3) (Imp: HRS §448B-8)

§11-79-10 Reinstatement of expired license. (a)
If less than one year has passed since the expiration
of the license, reinstatement may be requested.

(b) The individual requesting reinstatement shall submit to the department:

- (1) An application for reinstatement; and
- (2) The late fee in addition to the triennial fee.

(c) The reinstatement shall expire three years from the expiration date of the original expired certificate. [Eff _____] (Auth: HRS §448B-3) (Imp: HRS §448B-8)

SUBCHAPTER 3

CODE OF ETHICS, MISCONDUCT, AND DISCIPLINARY
PROCEDURES

§11-79-11 Code of ethics. All dietitians licensed under these Rules shall adhere to the following ethical principles adapted from the American Dietetic Association's code of ethics.

- (1) The dietetics practitioner conducts himself/herself with honesty, integrity, and fairness.
- (2) The dietetics practitioner practices dietetics based on scientific principles and current information.
- (3) The dietetics practitioner presents substantiated information and interprets controversial information without personal bias, recognizing that legitimate differences of opinion exist.
- (4) The dietetics practitioner assumes responsibility and accountability for personal competence in practice, continually striving to increase professional knowledge and skills and to apply them in practice.

- (5) The dietetics practitioner recognizes and exercises professional judgment within the limits of his/her qualifications and collaborates with others, seeks counsel, or makes referrals as appropriate.
- (6) The dietetics practitioner provides sufficient information to enable clients and others to make their own informed decisions.
- (7) The dietetics practitioner protects confidential information and makes full disclosure about any limitations on his/her ability to guarantee full confidentiality.
- (8) The dietetics practitioner provides professional services with objectivity and with respect for the unique needs and values of individuals.
- (9) The dietetics practitioner provides professional services in a manner that is sensitive to cultural differences and does not discriminate against others on the basis of race, ethnicity, creed, religion, disability, sex, age, sexual orientation, or national origin.
- (10) The dietetics practitioner does not engage in sexual harassment in connection with professional practice.
- (11) The dietetics practitioner provides objective evaluations of performance for employees and coworkers, candidates for employment, students, professional association memberships, awards, or scholarships. The dietetics practitioner makes all reasonable effort to avoid bias in any kind of professional evaluation of others.
- (12) The dietetics practitioner is alert to situations that might cause a conflict of interest or have the appearance of a conflict. The dietetics practitioner provides full disclosure when a real or potential conflict of interest arises.

- (13) The dietetics practitioner who wishes to inform the public and colleagues of his/her services does so by using factual information. The dietetics practitioner does not advertise in a false or misleading manner.
- (14) The dietetics practitioner promotes or endorses products in a manner that is neither false nor misleading.
- (15) The dietetics practitioner permits the use of his/her name for the purpose of certifying that dietetics services have been rendered only if he/she has provided or supervised the provision of those services.
- (16) The dietetics practitioner accurately presents professional qualifications and credentials.
 - (A) The dietetics practitioner uses Commission on Dietetic Registration awarded credentials ("RD" or "Registered Dietitian"; "CSP" or "Certified Specialist in Pediatric Nutrition"; "CSR" or "Certified Specialist in Renal Nutrition"; and "FADA" or "Fellow of The American Dietetic Association") only when the credential is current and authorized by the Commission on Dietetic Registration. The dietetics practitioner provides accurate information and complies with all requirements of the Commission on Dietetic Registration program in which he/she is seeking initial or continued credentials from the commission on Dietetic Registration.
 - (B) The dietetics practitioner is subject to disciplinary action for aiding another person in violating any Commission on Dietetic Registration requirements or aiding another person in representing himself/herself as

Commission on Dietetic Registration
credentialed when he/she is not.

- (17) The dietetics practitioner withdraws from professional practice under the following circumstances:
- (A) The dietetics practitioner has engaged in any substance abuse that could affect his/her practice;
 - (B) The dietetics practitioner has been adjudged by a court to be mentally incompetent;
 - (C) The dietetics practitioner has an emotional or mental disability that affects his/her practice in a manner that could harm the client or others.
- [Eff] (Auth: HRS §448B-3)
(Imp: HRS §§448B-11)

§11-79-12 Grounds for denial, revocation, suspension, or condition of license. (a) The department shall deny an application for a license when the applicant fails to meet all of the requirements for licensure specified in subchapter 2 of these rules.

(b) The department may refuse renewal, revoke, suspend or condition a license for any one or more of the following acts or conditions on the part of the applicant or licensed dietitian:

- (1) Conviction by a court of competent jurisdiction of a crime which the director has determined to be of a nature that renders the person convicted unfit to practice dietetics;
- (2) Failing to report in writing to the director of any disciplinary decision related to dietetic practice issued against the licensed dietitian or the applicant in any jurisdiction within thirty days of the disciplinary decision or within twenty days of licensure;
- (3) Violation of recognized ethical principles for dietitians as set out in these rules;

- (4) Use of fraud, deception, or misrepresentation in obtaining a license;
- (5) Revocation, suspension, or other disciplinary action by another state, territory, federal agency, or country against the licensed dietitian or applicant for any reason provided under this section; or
- (6) Other just and sufficient cause that renders a person unfit to practice dietetics.

(c) Should a license be revoked or suspended, it shall be in writing; and the director shall state the reason for the revocation or suspension and the effective date of the action. [Eff] (Auth: HRS §448B-3) (Imp: HRS §448B-11)

§11-79-13 Enforcement. (a) A violation as specified under section 11-79-10 may be discovered by the department or may be based on a complaint made by any person.

(b) When a complaint originated from a person, the complainant shall submit a written statement to the department which must include:

- (1) The exact nature of the complaint outlining what professional or ethical principles the license holder is alleged to have violated;
- (2) Information and facts supporting the complaint including dates, times, locations, and names and addresses of witnesses or other individuals with knowledge about the situation, and any other supporting information; and
- (3) The signature of the complainant, address and a day-time telephone number.

(c) The department shall notify the complainant, in writing, that the letter has been received within fifteen working days of receiving the initial complaint.

(d) The department shall notify the respondent, in writing, within fifteen working days of discovery of an alleged violation or receipt of a complaint. This notice shall include, at a minimum, the nature of

the alleged violation, date of the alleged violation, and a description of the investigation process established by the department as set forth in this section.

(e) The respondent shall have thirty days after receipt of the notice of complaint during which to respond to the department in writing.

(f) Upon receipt of the respondent's statement, the director may assign a hearing officer to hold a hearing in accordance with Chapter 91, Hawai'i Revised Statutes(HRS), and the department rules on practice and procedure.

(g) The advisory committee may be convened by the director. If convened, the committee shall review the facts gathered during the hearing and make any appropriate recommendations to the director.

(h) The director or hearing officer shall render a decision within sixty calendar days of the hearing. If the director determines, based on the complete record and other relevant information provided during the investigation, that the respondent has engaged in misconduct or has violated ethical principles, the director may issue:

- (1) A suspension; or
- (2) A revocation.

(i) Notice of the decision shall be sent by certified or registered mail to the respondent within fifteen days of the decision.

(j) Any appeal involving the decision shall be directed in writing to the director pursuant to the department of health's rules of practice and procedure.

(k) If no request for an appeal is received by the director within forty-five days of the mailing of the written decision to the respondent, the decision shall become final. [Eff] (Auth: HRS §448B-3) (Imp: HRS §448B-11)

§11-79-14 Suspension. (a) A license may be suspended for any of the reasons specified in §11-79-12. The suspension shall:

- (1) Be in writing;

- (2) State the reason for the suspension;
- (3) State the duration of the suspension; and
- (4) State the conditions for reinstatement.

(b) At the conclusion of the suspension period, the individual may apply for reinstatement, in writing, and provide documentation of compliance with conditions for reinstatement. If there is no application for reinstatement within ninety days, the department may revoke the license.

(c) Reinstated licenses shall not exceed the period of the original license. If the license expires while it is in suspension, the individual shall be allowed up to ninety days to apply for re-licensing.

[Eff] (Auth: HRS §448B-3) (Imp: HRS §448B-11)

§11-79-15 Determination of suspension or revocation. The determination of whether a suspension or revocation will be imposed shall be consistent with the seriousness of the misconduct based upon consideration of the following:

- (1) Actual or potential harm;
- (2) Severity of actual or potential harm;
- (3) Presence or absence of a pattern of misconduct;
- (4) Previous instance(s) of misconduct;
- (5) Intent;
- (6) Impairment and willingness to address such impairment;
- (7) Level of continued risk to the public and the dietetics profession as a whole;
- (8) Actions taken by the licensed dietitian and other parties to mitigate actual or potential harm;
- (9) Extenuating circumstances or contributing factors; and
- (10) Ability to continue working as a competent, licensed dietitian. [Eff] (Auth: HRS

§448B-3) (Imp: HRS §448B-11)

§11-79-16 Reinstatement following revocation.

- (a) A licensed dietitian who has had his or her

license revoked may submit a written request to the department to have eligibility for licensure reinstated. If such permission is granted, the licensed dietitian shall be allowed to apply for licensure.

(b) A request to apply for reinstatement of eligibility shall not be submitted until one year or more after the effective date of the initial revocation.

(c) A request to apply for reinstatement of eligibility shall include a statement detailing the reasons why permission to apply for licensure should be granted.

(d) Upon receipt of a request for reinstatement of eligibility, the department shall forward the request and supporting documentation to the advisory committee for review.

(e) The advisory committee shall review the request and supporting documentation, if any, and shall prepare written comments to the director.

(f) The director shall review the request for reinstatement of eligibility, the submitted basis therefore, and the recommendation of the advisory committee and shall grant or deny reinstatement of eligibility based on the following:

- (1) The presence or absence of demonstrated evidence which clearly shows that the misconduct which formed the basis of the revocation has been actively addressed;
- (2) The serious nature of the misconduct which formed the basis of the revocation; and
- (3) The likelihood that client safety and quality of care would not be jeopardized in any way by reinstatement.

(g) The licensed dietitian shall be notified by mail of a decision on reinstatement of eligibility within sixty days of receipt of the initial written request. If reinstatement of eligibility is granted, the notice of decision shall include information detailing the procedures that must be followed by the applicant in order to apply for licensing.

(h) Denial of reinstatement under this section

is not subject to appeal. [Eff] (Auth: HRS §448B-3) (Imp: HRS §448B-11)

SUBCHAPTER 4

OTHER PROVISIONS

§11-79-17 Licensure Fees. The department shall collect a non-refundable fee for each of the following:

- (1) Twenty-five dollars for initial application for licensure.
- (2) Two-hundred twenty-five dollars for triennial licensure fee.
- (3) Fifty dollars for late renewal.
- (4) Fifty dollars for application for licensure by endorsement.
- (5) Twenty-five dollars for inactive status.
- (6) Twenty-five dollars for replacement licenses. [Eff] (Auth: HRS §448B-3) (Imp: HRS §448B-9)

§11-79-18 General appeals. Appeals other than for violations as specified under §11-79-12, shall be directed, in writing, to the director pursuant to the department of health's rules of practice and procedure. [Eff] (Auth: HRS §448B-3) (Imp: HRS §448B-11)

§11-79-19 Licensed Dietitian Special Fund. All fees collected shall be deposited into the Licensed Dietitian special fund, and shall be used for:

- (1) Operation of licensing program; and
- (2) Funding of statewide continuing education and training programs for licensed dietitians. [Eff] (Auth: HRS §448B-3) (Imp: HRS §448B-10)

